UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/1995/SR.15
14 February 1995

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS

Fifty-first session

SUMMARY RECORD OF THE 15th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 8 February 1995, at 4.30 p.m.

Chairman: Mr. BIN HITAM (Malaysia)

CONTENTS

STATEMENT BY MS. GLOVER, DIRECTOR OF THE OFFICE FOR DEMOCRATIC INSTITUTIONS AND HUMAN RIGHTS OF THE ORGANIZATION FOR SECURITY AND COOPERATION IN EUROPE

QUESTION OF THE REALIZATION IN ALL COUNTRIES OF THE ECONOMIC, SOCIAL AND CULTURAL RIGHTS CONTAINED IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AND IN THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, AND STUDY OF SPECIAL PROBLEMS WHICH THE DEVELOPING COUNTRIES FACE IN THEIR EFFORTS TO ACHIEVE THESE HUMAN RIGHTS, INCLUDING: PROBLEMS RELATED TO THE RIGHT TO ENJOY AN ADEQUATE STANDARD OF LIVING; FOREIGN DEBT, ECONOMIC ADJUSTMENT POLICIES AND THEIR EFFECTS ON THE FULL ENJOYMENT OF HUMAN RIGHTS AND, IN PARTICULAR, ON THE IMPLEMENTATION OF THE DECLARATION ON THE RIGHT TO DEVELOPMENT (continued)

QUESTION OF THE REALIZATION OF THE RIGHT TO DEVELOPMENT (continued)

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Commission at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.95-10840 (E)

The meeting was called to order at 4.30 p.m.

STATEMENT BY MS. GLOVER, DIRECTOR OF THE OFFICE FOR DEMOCRATIC INSTITUTIONS AND HUMAN RIGHTS OF THE ORGANIZATION FOR SECURITY AND COOPERATION IN EUROPE

1. Ms. GLOVER (Organization for Security and Cooperation in Europe) said that the Conference on Security and Cooperation in Europe (CSCE) had been renamed the Organization for Security and Cooperation in Europe (OSCE) at the Budapest Conference in December 1994. Despite its title, however, OSCE was still not an international organization with a proper legal personality.

2. The Conference on Security and Cooperation in Europe, established in 1975 by the Final Act of Helsinki, had been based on an intergovernmental conference of European States, the United States of America and Canada. Its main aim, from the perspective of the Western States, had been the gradual elimination of Europe's artificial barriers. The Eastern European States had held a different view, regarding the Conference as an official recognition of the territorial status quo in Europe. The group of neutral and non-aligned CSCE States had played a useful role in broadening contacts and facilitating agreements between East and West.

3. During its two decades of existence, the Conference's geographical scope had remained essentially the same, except for the entry of one new member, Albania, in 1991. At the same time, the number of CSCE participating States had risen dramatically from 35 in 1973 to 53 in 1993 following the dissolution of the Soviet Union, Yugoslavia and Czechoslovakia, transforming the Conference from a predominantly Euro-Atlantic institution into a Euro-Asian-Atlantic one in which the problems of Central Asia and the Caucasus had come to occupy an increasingly important place.

4. The Office for Democratic Institutions and Human Rights (ODIHR) represented the human dimension of OSCE and was mandated to deal with the following issues: human rights and fundamental freedoms, the rule of law, democracy and democratic institution building, the rights of persons belonging to national minorities, and human contacts.

5. ODIHR had initially begun as the Office for Free Elections, established in 1990 for the purpose of monitoring elections. In 1991, the Office's charter had been expanded by CSCE and its name had been changed to the Office for Democratic Institutions and Human Rights. It had been mandated, inter alia, to organize conferences on democratic institutions, act as a clearing-house for a broad range of human rights topics, establish contacts with non-governmental organizations, and cooperate with other institutions doing similar work.

6. Its mandate had been broadened again in 1992, when the Office had been requested to manage the human dimension mechanism, organize seminars, particularly for the newly admitted participating States, provide support for the High Commissioner on National Minorities and assist in monitoring the implementation of human dimension commitments. In 1993, the Office had been requested by the CSCE Council to provide assistance to CSCE long-term field missions. It had also been given further tasks by the recent Budapest Review Conference.

7. While it had initially viewed the human dimension and security concerns as two separate aspects of its mandate, CSCE had in 1994 affirmed the significance of the human dimension in all its activities, thus recognizing the close ties between security, cooperation and conflict prevention on the one hand and human rights and fundamental freedoms and the rule of law on the other.

8. The mandate of ODIHR was, then, to help build democratic institutions and assist States in implementing their human dimension commitments. Despite the fact that it dealt with some highly controversial issues, her Office carried out its work in a spirit of cooperation with States and did not take up a confrontational stance.

9. As part of its mandate, the Office had been helping new democracies to establish a tradition of free elections and had been assisting in electoral administration and the drafting of electoral codes. To that end, it had coordinated the monitoring of parliamentary, presidential and local elections and referenda in various countries and had held election seminars on local and national elections. It had also helped establish a regional association of election officials for Central and Eastern Europe. In the future, it was planning to spend more time in the field during the pre-election period so as to ensure fair conditions for the candidates. It would also be holding pre-election seminars to instruct local offices how to monitor elections.

10. Newly emerging democracies had increasingly sophisticated needs in election assistance and observation which required a corresponding change in approach. The Office had already demonstrated its new approach in the Ukraine, where it had organized an international round table on election law and practices following elections in that country. It planned to provide longer and more critical reports at the end of elections.

11. ODIHR also organized seminars on a range of human dimension topics including national minority issues, tolerance, migrant workers and local democracy. While those seminars had been attended by a growing number of non-governmental organizations, the lack of attendance of CSCE participating States was disappointing. Her Office had thus decided to organize smaller seminars focused on issues in particular countries. Seminars were part of the ODIHR programme of support for newly admitted participating States and were open to civil servants, the media, the general public, students and non-governmental organizations. One of the most effective seminars to date had been the Warsaw Judicial Symposium, a residential seminar on issues relating to judges and prosecutors.

12. ODIHR had an active rule-of-law programme, the objectives of which were to strengthen the independence of the judiciary in the emerging democracies, provide human and documentary resources, analyse constitutions and assist in drafting laws. It also conducted training programmes in emerging democratic States on subjects relating to the rule of law. In implementing the rule-of-law programme, ODIHR collaborated with international bodies, courts, law associations and universities. It also worked with OSCE long-term missions, assisting them in drafting legislation and developing programmes.

13. Her Office disseminated information on human dimensions issues and was aware that even more efforts were needed in that area. It had published a book in Russian containing all the human rights instruments of the United Nations and Council of Europe and all the relevant OSCE documents. The newly admitted participating States would of course prefer to have that information in their own languages and her Office had begun work on that task.

14. ODIHR had from the start worked closely with non-governmental organizations. It facilitated exchanges of information between the Office and non-governmental organizations and among the NGOs themselves. It invited NGO participation in the preparation and holding of seminars and in election monitoring. It recognized that NGOs performed a vital role in building a civil society, particularly in the newly admitted participating States. Her Office would be holding workshops to help new NGOs get established.

15. Her Office also acted as a clearing-house for exchange of information on Roma and Sinti issues, helped develop programmes on those issues in collaboration with international organizations and helped facilitate contacts between the Roma and Sinti.

16. ODIHR actively cooperated also with the Centre for Human Rights and the Office of the High Commissioner for Human Rights, and hoped to expand its collaboration with those two bodies still further.

17. The Office had to date worked mainly in response to particular situations. However, it had recently been asked by OSCE to provide information on implementation questions, thus providing it with an opportunity to comment on the way States carried out their human dimension commitments. OSCE participating States could not claim that such activities interfered with their domestic affairs: those very same States had recently affirmed that the commitments undertaken in the field of the human dimension of OSCE were matters of direct and legitimate concern to all participating States and did not belong exclusively to the internal affairs of the States concerned. Indeed, it was that logic had that permitted the ODIHR mission to Chechenya to take place.

18. The Minister for Foreign Affairs of Poland, echoing the sentiments of many other emerging democracies, had recently stated that OSCE was an indispensable feature of the contemporary European landscape and a necessary tool for structuring the future of the continent in terms of cooperation, common values and shared security interests. Her Office would do its utmost to meet that challenge.

QUESTION OF THE REALIZATION IN ALL COUNTRIES OF THE ECONOMIC, SOCIAL AND CULTURAL RIGHTS CONTAINED IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AND IN THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, AND STUDY OF SPECIAL PROBLEMS WHICH THE DEVELOPING COUNTRIES FACE IN THEIR EFFORTS TO ACHIEVE THESE HUMAN RIGHTS, INCLUDING: PROBLEMS RELATED TO THE RIGHT TO ENJOY AN ADEQUATE STANDARD OF LIVING; FOREIGN DEBT, ECONOMIC ADJUSTMENT POLICIES AND THEIR EFFECTS ON THE FULL ENJOYMENT OF HUMAN RIGHTS AND, IN PARTICULAR, ON THE IMPLEMENTATION OF THE DECLARATION ON THE RIGHT TO DEVELOPMENT (item 7 of th provisional agenda) (continued) (E/CN.4/1994/25 and 101; E/CN.4/Sub.2/1994/9 and Corr.1; E/1994/23; E/1994/L.23, E/C.12/1994/12)

QUESTION OF THE REALIZATION OF THE RIGHT TO DEVELOPMENT (item 8 of the provisional agenda) (continued) (E/CN.4/1995/11, 26, 27, and 114; A/49/653)

19. Mr. VILLAROEL (Philippines) said that central to the issue of development, to which all Governments aspired, was the reality that the vast majority of people in the world lacked adequate food, shelter, health, education and basic human rights. Development was not just economic growth and material prosperity, however, but rather a process in which economic, political and social institutions coalesced to create an environment in which human potential could be fully realized. In alleviating poverty, for example, the poor should be helped to change their perception of themselves as defenceless players in an uncaring world because, though they might not be aware of it, they held within themselves the power to shape their own future.

20. People empowerment was central to his Government's vision of development which aimed to propel the country by the year 2000 towards a people-empowered and prosperous national community in which the least among Filipinos had adequate food, clothing, shelter and dignity. The three main planks of the Philippines' agenda for social reform were access by citizens to basic services, reforms that widened citizens' share of the resources from which they could earn a living and reforms that enabled citizens effectively to participate in the decision-making processes that affected their rights, interests and welfare.

21. The problem of foreign indebtedness and its possible negative impact on the development plans of the Philippines was a cause of continuing concern. For almost a decade, the devastating effects of the debt crisis had impeded the economic and social development of many developing countries, thereby threatening human rights and fundamental freedoms, including the right to development. Although his Government was determined that the debt crisis would not defeat its economic and social reform agenda, it supported innovative measures aimed at radically reducing the debt burden of developing countries.

22. The problem was a complex one which could be resolved only through concerted action by all the key players, including creditor and debtor nations, commercial banking establishments and international financial institutions. In exploring all avenues for solving the international debt crisis, his Government, despite its limited resources, remained committed to abiding by all its international financial obligations, including the targets set in the economic adjustment programme sponsored by the International Monetary Fund.

23. Mr. LEGAULT (Canada) said that his delegation had supported the adoption in 1986 of the Declaration on the Right to Development because it had reaffirmed the responsibility of the international community as a whole to work for the realization of all the principles embodied in the Universal Declaration of Human Rights.

24. The Vienna World Conference on Human Rights, reflecting a strong consensus among Governments, had firmly established that civil, cultural, economic, political and social rights were integral, indivisible and inalienable elements of fundamental human rights.

25. His delegation had taken note of the reports of the Working Group on the Right to Development (E/CN.4/1995/11 and 27 and E/CN.4/1994/21 and Corr.1 and 2), which discussed several major obstacles to the realization of the right to development.

26. Development strategies had for too long been narrowly focused on economic growth. Lack of attention to the social aspects of development had resulted in leaving large segments of many societies on the margin of the development process. Nevertheless, a new people-centred approach had been gradually emerging within the international community: development was beginning to be seen as the improvement of human well-being through the eradication of hunger, disease, illiteracy and ignorance and through the productive participation of all members of society.

27. The Agenda for Development (A/48/935) provided a new framework for the United Nations role in fostering the integration of social and economic cooperation. The Working Group on the Right to Development should follow closely the progress made in implementing the Agenda, bearing in mind the fact that the question of development must include a human rights perspective.

28. He agreed with the Working Group's conclusion that a supportive international environment was required for the implementation of the right to development. His Government was convinced that an open international trading system, based on a system of agreed rules, was the best way for all countries to ensure their access to global markets.

29. Another crucial obstacle to the implementation of the right to development was the continuing discrimination against women, indigenous people and other vulnerable groups in the development process. His Government agreed with the Working Group that women should be full participants in, and beneficiaries of, an integrated approach to development. Obstacles to the right of women to full and equal participation, land and property ownership, health care and education must be eliminated. All forms of violence towards women and children must be eradicated. The inherent dignity and the unique contribution of indigenous people to the development of society should also be recognized.

30. Popular participation in the development process did not mean bypassing Governments. The effective implementation of the right to development required committed Governments and public services. At the same time, greater emphasis should be placed on individual initiative and the promotion of the private sector. That would require a shift away from bilateral aid towards strengthening local and national non-governmental organizations and the private sector.

31. His delegation agreed with the Working Group that Member States had the ultimate responsibility for the implementation of the right to development. It also agreed that development could not be seen as an imported phenomenon or one that was based on the charity of the developed countries. Advancing the cause of the right to development did not imply the imposition of so-called "Western" values or forms of government. Guarantees of basic rights and

freedoms could take various institutional forms based on specific national traditions and needs. Above all, it was important to ensure that universal standards were not denatured in the process of naturalization.

32. He welcomed the Working Group's view that democracy, good governance and development were mutually reinforcing. The implementation of the right to development, which included respect for economic, social and cultural rights, required that all individuals and groups should take an active part in the decision-making and development processes. A vigorous civil society was also indispensable.

33. His delegation welcomed the Working Group's emphasis on the need for good governance in order to implement the right to development. That right could not be realized without respect for human rights and the rule of law; without the establishment and implementation of sound economic and social policies; without much lower levels of corruption in public life and effective mechanisms to deal with cases of corruption; without financial probity, accountability and transparency; and without appropriate levels of military expenditure and appropriate roles for the military in society.

34. The right to development must also be implemented under conditions of peace and security. Efforts must be made to break the vicious cycle of underdevelopment, tension and military build-up. An effective early-warning system was essential to prevent outbreaks of conflict.

35. Insufficient coordination within the United Nations system was another obstacle to the realization to the right to development. Economic and social development should be considered as two sides of the same coin.

36. The High Commissioner for Human Rights had a major role to play in ensuring that human rights machinery was integrated into development activities. His delegation thus welcomed the High Commissioner's plan to encourage international financial institutions and development agencies to take account of the human rights dimensions of their work.

37. The conclusions and recommendations of the Working Group on the Right to Development merited careful consideration. He hoped that the Working Group would continue to proceed in a focused and pragmatic manner, in full collaboration with related efforts under way in other parts of the United Nations system.

38. Mr. POKU (Observer for Ghana) said that, despite the initial scepticism which had greeted the adoption of the Declaration on the Right to Development in 1986, the 1993 World Conference on Human Rights had reaffirmed the right to development as a universal and inalienable right and an integral part of fundamental human rights. It had further reaffirmed that all human rights were universal and indivisible and that the international community must treat them all on the same footing and with the same emphasis.

39. Since the World Conference, the right to development could be said to have come into its own. The Commission should therefore no longer relegate that right, which encompassed economic, social and cultural rights, to a place

behind civil and political rights. Indeed, just as the Commission had adopted minimum standards for the observance of civil and political rights, it should establish certain minimum standards against which progress in the implementation of the right to development could be measured.

40. In his thought-provoking statement on the implementation of economic and social rights, the Minister for Development Cooperation of Denmark had rightly stated that the common starting-point for discussions on the implementation of economic and social rights could be found in the concept of the right to development. Such ministers from the North should perhaps be invited more often to address the Commission, first, to redress the imbalance in the emphasis given to civil and political rights and, secondly, to facilitate a meaningful North-South dialogue on the right to development.

41. In such a dialogue, the analysis, conclusions and recommendations made by the Working Group on the Right to Development would be most relevant. He noted that some of those conclusions and recommendations had already been factored into the activities of the United Nations system and that the High Commissioner for Human Rights and the Assistant Secretary-General for Human Rights had raised a platform for human rights, especially the right to development, in the relevant councils of the United Nations.

42. Inter-agency consultations should, however, go beyond that stage. Even though obstacles existed at the national and regional levels to the realization of the right to development, the creation of a worldwide enabling environment for sustainable development was fundamental. At the global level, efforts should focus on the economic and social disparities between the North and the South, the excruciating debt burden of developing countries and the lopsided terms of international trade.

43. It was common knowledge that the major economic decisions affecting all countries and their populations were taken not in democratic multilateral institutions but by a small group of powerful countries. It was crucial, therefore, to target that Group in pursuance of the right to development. In that connection, the Chairman of the non-aligned movement had developed the practice of sending memoranda to the Group during its meetings. The High Commissioner and the Commission should find a similar way of sending appropriate messages to the Group in order to stress that the human rights dimension should be taken into account in its deliberations and remind it that the human being was the central subject of development.

44. The vast majority of the deprived peoples of the planet were not impressed by statistics on the good performance of the global economy. Such statistics were merely esoteric if they did not translate into job creation, poverty alleviation, debt reduction or cancellation, the redistribution of resources, and fair terms of trade.

45. In some of those areas, the High Commissioner and the Commission might wish to make some forays into the agendas of the Bretton Woods institutions, whose accountability to the United Nations had been conspicuously lacking. Within the framework of its mandate, the Commission on Human Rights should start to exact such accountability.

46. There appeared to be a structural deficit in international cooperation and coordination and, unless that deficit was made good, the gap between North and South would grow even wider, thereby jeopardizing not just the quality of life of millions of the wretched of the Earth but also their very survival. Indeed, the crass disparities between haves and have-nots at both the national and international levels would certainly lead to confrontation and conflict, with their attendant violation of human rights.

47. In short, the realization of the right to development was the key to the search for solutions to human rights problems in general, since, in the final analysis, the source of all conflicts and confrontations could be traced to who had what portion of the national or international cake.

48. Mr. KA (Observer for Senegal) said he welcomed the elaboration by the Working Group on the Right to Development of a conceptual framework for the realization of the right to development. He noted with satisfaction that the spirit which had prevailed during the drafting of the Declaration on the Right to Development had survived and was being perpetuated in the aspirations of the majority of the world's people.

49. The current challenge to the international community was to ensure the full integration of the right to development into the system of human rights protection. A mechanism should be introduced to measure the progress made by States in the area of economic, social and cultural rights, thereby redressing one of the shortcomings of the current system, namely, the separation between economic development and social development issues

50. The principal obstacle to the implementation of the Declaration on the Right to Development was the multidimensional nature of that right, which went beyond the traditional legal framework. It had been claimed that civil and political rights were based on the principle of freedom, while economic, social and cultural rights derived from the principle of equality. It should be added that the realization of the right to development required not only freedom and equality but also solidarity among individuals at both the national and international levels.

51. The mechanisms for promoting such solidarity should not aim at a clean break with the current system nor the maintenance of certain countries in a situation of dependence vis-à-vis others. Instead, the new system should be based on a social and international order in which the rights and freedoms set forth in the Universal Declaration of Human Rights could be fully realized. The system should also be capable of resolving the eternal dilemma in international relations between freedom and the regulation that was necessary for any social life.

52. The Working Group should consider ways of continuing the work it had begun. Its dialogue with the various committees and representatives of cooperation agencies of the United Nations system should be institutionalized. Just like the International Labour Organisation which covered economic, political, social and cultural fields, a tripartite working group consisting of Governments, the chairpersons of the treaty bodies and representatives of the international organizations might possibly be established.

53. Since the Declaration on the Right to Development was non-enforceable, however, the Working Group could also consider the feasibility of preparing an instrument that was more binding on States and encompassed the political, economic and social spheres. It was high time that the international community sought a new balance between the various categories of human rights. Such a balance could be found in the integral application of the current system of protection of human rights.

54. Mr. CANGELARIS (Observer for Greece), speaking in exercise of the right of reply, said that the observer for the Former Yugoslav Republic of Macedonia had, during the discussion on agenda item 8, referred to the "Republic of Macedonia", a term which was not accepted in the United Nations system. As that country's name-plate indicated, the correct denomination was "the Former Yugoslav Republic of Macedonia". That compromise solution had been reached, not by chance, but after long debate. It had been set out in Security Council resolution 817/1993 and reaffirmed by the General Assembly and, as such, it must be respected.

55. As for the embargo that had been mentioned by the observer for the Former Yugoslav Republic of Macedonia, the Government of Greece had, on 16 February 1994, been placed in the delicate situation of being obliged to take countermeasures as a last recourse for the protection of its national interests which were being directly threatened by the intransigence and expansionist claims of the Former Yugoslav Republic of Macedonia.

56. Greece had always been positively disposed to a constructive dialogue with its neighbour which could have led to a definitive settlement of the problem. It had demonstrated its goodwill by participating in the "Vance" procedure under United Nations auspices. So far, however, the Former Yugoslav Republic of Macedonia had not displayed a similarly constructive attitude. In other words, it had not removed the usurped historical symbols from its flag nor had it amended the articles of its Constitution which were a direct indication of territorial claims against Greece. It also continued its irredentist propaganda.

57. The countermeasures adopted by Greece were essentially political and were not aimed at the economic strangulation of its neighbour.

The meeting rose at 5.35 p.m.